

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension of the
License to Conduct Gambling Activities of:

Yuchan Chen Yu
Seattle, Washington,

Licensee.

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NO. CR 2013-01137

**NOTICE OF ADMINISTRATIVE
CHARGES AND OPPORTUNITY FOR
AN ADJUDICATIVE PROCEEDING**

I.

The Washington State Gambling Commission issued Yuchan Chen Yu the following license:

Number 68-16032, authorizing Card Room Employee activity, formerly with the Drift on Inn in Shoreline.

The license expires on April 30, 2014, and was issued subject to Ms. Chen Yu's compliance with state gambling laws and rules.

II.

David Trujillo, Director of the Washington State Gambling Commission, charges the licensee with the following violations of Chapter 9.46 RCW, and WAC Title 230.

SUMMARY:

Yuchan Chen Yu under-reported \$645 in tips from April 1, 2013, to April 14, 2013.

FACTS:

1) On March 12, 2013, a Washington State Gambling Commission Special Agent (agent) went to the Drift on Inn card room, located in Shoreline. The agent gave a notification letter to the Regional Manager, Oscar Trusley, stating that it was Commission staff's intent to review the licensee's tip reporting process. The agent told Mr. Trusley that within the next month he would come back and look at the amount of tips dealers were reporting.

2) On April 11, 2013, the agent returned to the Drift on Inn to conduct a routine payroll inspection. During this time, the agent randomly picked a number of dealers to audit the tips¹ they reported. Among the dealers the agent chose to audit was Yuchan Chen Yu.

¹ Tips are also referred to as tokens. Both are gratuities received by card room employees who are dealers from players or patrons.

- 3) The agent went to the Drift on Inn's accounting office and spoke with accounting employee, Vicki Kubo. The agent asked Ms. Kubo for Ms. Chen Yu's time sheets to show what days she worked and what time she clocked off of work. Mr. Kubo provided the time sheets for the payroll period of April 1, 2013 to April 14, 2013, when Ms. Chen Yu worked a total of 67 hours. Ms. Kubo provided a copy of Ms. Chen Yu's IRS 4070 form where she recorded her tip amounts for the pay period of April 1, 2013 to April 14, 2013, which was signed by Ms. Chen Yu. Ms. Kubo previously told the agent that the form was used by dealers to record their tips and then they turned the form into the cage cashier. On the IRS 4070 form for the pay period in question, Ms. Chen Yu wrote down that she had received \$275 in tips, and the "tips paid out" amount was blank.²
- 4) The agent went to the surveillance department and asked Surveillance Observer Eric Yost to have the surveillance observers track the amount of tips Ms. Chen Yu cashed out at the end of her shift. The agent gave Mr. Yost the days and times Ms. Chen Yu cashed out her tips. The agent told Mr. Yost to have someone record the surveillance video of Ms. Chen Yu cashing out her tips onto a DVD that the agent would pick up at a later time.
- 5) The agent returned to the Drift on Inn and collected two DVD's from Surveillance Observer David Leib that had been copied. On the surveillance video, it shows Ms. Chen Yu cashing out her tips from April 1, 2013 to April 14, 2013, of at least \$928 at the cashier's cage. The amount is actually greater than this, due to the fact that on six separate days Ms. Chen Yu took coins from her token box as the cage cashier emptied the token box. The agent was unable to verify the amount of coins she took from the box on each of these occasions.
- 6) Ms. Chen Yu had turned one form in and claimed a total of \$275 in tips, with nothing being paid out as tips to other persons. However, it appeared that Ms. Chen Yu had given the cage cashiers a total of \$24 over the same two-week period. Using the \$275 in tips that Ms. Chen Yu claimed, there was a difference of \$645 between the amount of tips Ms. Chen Yu actually made (\$920) and the amount of tips reported. This meant that Ms. Chen Yu only claimed 29.89% of her actual tips, and did not follow the procedure for reporting her tips per the Internal Controls.
- 7) The agent was subsequently at the Drift on Inn for an unrelated matter. There was a DVD with Ms. Chen Yu's name and the date of May 20, 2013 written on it. There was also a Macau Shoreline Supervisor's Record of Incident/Counseling form. The form had Ms. Chen Yu's name written under the employee name section and Drift on Inn Casino Manager Steven Charie's name written under the supervisor name section. The form stated on that May 20, 2013, as she was cashing out her token box, Ms. Chen Yu "removed chips from the pile resulting in a cash out of \$442." Ms. Chen Yu later brought the chips back she had removed and cashed them out for "another \$100." The last sentence stated: "These actions are not allowed and could be seen as an attempt to disguise the total amount of tokens." According to Mr. Yost, there is a procedure at Drift on Inn where the surveillance department is to track and write down information on all cash outs over \$500, whether they are patrons or dealers.
- 8) The agent watched another DVD. On May 20, 2013, at approximately 20:16, Ms. Chen Yu brought her token box to the cashier's cage to cash out her tips. While the cage cashier was

² It is a common practice to tip the cage cashier after the dealer has been cashed out by the cage cashier.

counting the chips, Ms. Chen Yu took a number of coins from the pile of chips. Ms. Chen Yu also took what appeared to be ten \$1 blue chips and placed them in the cage cashier's tip box. At approximately 20:17, Ms. Chen Yu took what appeared to be six \$25 green chips from a stack of chips. Ms. Chen Yu then held the chips in her left hand. At approximately 20:18 hours, Ms. Chen placed two \$25 chips back onto the counter and into the chips she was cashing out. The cage cashier then gave Ms. Chen Yu \$442. At approximately 20:18:15, Ms. Chen Yu walked away from the cashier's cage and appeared to listen to something on her cell phone. At approximately 20:19 hours, Ms. Chen Yu walked back up to the cashier's cage and put the four \$25 chips she had been holding onto the counter. The cage cashier gave Ms. Chen Yu a \$100 bill in exchange for the chips. Ms. Chen Yu took the money and walked away.

9) On June 12, 2013, the agent interviewed Ms. Chen Yu. As Ms. Chen Yu requested an interpreter, the agent called the Language Line and requested a Cantonese interpreter. The agent told Ms. Chen Yu he wanted to talk to her about underreporting of tips. The interview is summarized as follows:

- Ms. Chen Yu stated she had been working since June 2012.
- The agent read and also provided a copy of WAC 230-15-425(2), Failure to Accurately Report All Tips to Employer and WAC 230-15-475(6)(d), Failure to Follow Internal Controls. The agent asked if Ms. Chen Yu was familiar with the WAC's, and she stated she was not. The agent informed Ms. Chen Yu that as a card room employee, she should be familiar with them.
- The agent read and also provided Ms. Chen Yu with a copy of the Drift on Inn's Internal Controls regarding tips. The agent explained the Internal Controls (IC's) to Ms. Chen Yu and had her initial next to the pertinent sections. Ms. Chen Yu stated she had never seen the IC's. The agent told Ms. Chen Yu that it was her responsibility as a card room employee to be familiar with the IC's for the casino she worked at. The agent asked Ms. Chen Yu if she had any questions about the WAC's or IC's, and she stated that she did not.
- The agent showed Ms. Chen Yu a copy of the Drift on Inn memo dated December 21, 2012, regarding dealer tips that had previously been posted in the Drift on Inn employee break room. Ms. Chen Yu stated she had seen the memo. The agent also showed a copy of another Drift on Inn memo dated March 13, 2013, regarding claiming tips. The memo stated that employees were to "accurately report all tips." It also stated that the "Washington State Gambling Commission will be randomly auditing dealers to ensure they are reporting accurately." Ms. Chen Yu stated that she had seen the memo.
- The agent explained to Ms. Chen Yu that for payroll period of April 1, 2013 to April 14, 2013, she worked a total of 67 hours. The agent told Ms. Chen Yu that on the IRS form 4070 form for that pay period, she wrote down \$275 in tips and the paid amount was left blank, for a total net tip amount of \$275.

- The agent told Ms. Chen Yu that via the surveillance video, he confirmed that she made \$920 in tips, which was a difference of \$645 in what she had claimed. Ms. Chen Yu stated that she was just doing what everyone else was doing, and she could not remember how much she made each day. The agent asked her why she didn't write the amount down every day, she said she did not know. The agent told Ms. Chen Yu that it was her responsibility to keep track of the amount of tips she made and then report the correct amount.
- The agent also showed and read to Ms. Chen Yu the Macau Shoreline Supervisor's Record of Incident/Counseling regarding the incident on May 20, 2013. The agent explained to Ms. Chen Yu that he knew she had taken \$100 out of the pile of chips because surveillance is notified anytime there is a cash out over \$500. Ms. Chen Yu stated that she was in a hurry and didn't have time to wait for surveillance to be notified. The agent told Ms. Chen Yu he did not believe her because he observed the surveillance video of the incident.
- The agent added that she took the \$100 in chips and held onto them in her hand while she was given money for the other chips. She then walked away from the cashier's cage for approximately 20 seconds and pretended to talk on her cell phone and then walked back to the cage and cashed out \$100. Ms. Chen Yu laughed and began to cry a little. Ms. Chen Yu stated that surveillance getting notified and writing down the transaction is the reason she took the chips.

VIOLATIONS:

1) RCW 9.46.075 Denial, suspension, or revocation of license, application, or permit

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or certified employee, or any person with any interest therein:

(The following subsection applies.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

2) WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, certified employee, or anyone holding a substantial interest in the applicant's or certified employee's business or organization:

(The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level.

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

3) WAC 230-15-425 Internal controls

(The following subsection applies.)

(2) Licensed card room employees must follow the internal control procedures for their individual functions.

4) WAC 230-15-475 Tips from players and patrons to card room employees

(The following subsection applies.)

(6) Employees must...

(d) accurately report all tips to their employer as described in the licensee's internal controls.

5) RCW 9.46.153 Applicants and licensees — Responsibilities and duties — Waiver of liability — Investigation statement as privileged.

(The following subsection applies.)

(1) It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

Yuchan Chen Yu failed to comply with internal control procedures by not accurately reporting her tips, in violation of WAC 230-425 and WAC 230-15-475. Ms. Chen Yu has failed to establish by clear and convincing evidence, as required by RCW 9.46.153(1), that she is qualified to be licensed. In addition, failure to comply with internal controls and accurately report tips establishes that the licensee poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities based on her activities. As a result, there are grounds to suspend or revoke Yuchan Chen Yu's license based on RCW 9.46.075(1), and WAC 230-03-085(1), (3) and (8).

III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

The licensee will have the opportunity to have a hearing on the alleged violations. In order to have a hearing, the enclosed REQUEST FOR HEARING must be completed in full by the licensee or representative and returned to the Gambling Commission within **23 days** from the date of the mailing of this notice.

Based on RCW 34.05.440, FAILURE TO RETURN THIS DOCUMENT WILL RESULT IN THE ENTRY OF A DEFAULT ORDER FOR A 30-DAY SUSPENSION YOUR LICENSE.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

David Trujillo, being first duly sworn on oath, deposes and says: He has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, knows the contents, and believes the same to be true, and that he is the duly appointed and qualified Director of the Washington State Gambling Commission and in that capacity has executed these Charges.

David Trujillo
DAVID TRUJILLO, DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 1 day of August, 2013.

Maureen Pretell
NOTARY PUBLIC in and for the State of

Washington residing at Thurston County
My Commission expires on December 2, 2015

STATE OF WASHINGTON)
)
COUNTY OF THURSTON)

I certify I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy, property addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 2 day of August, 2013

(Signature)

